

Marshall, Greg

From: Marshall, Greg
Sent: Tuesday, November 30, 2021 4:39 PM
To: Daniel Rey-Bear
Cc: christopher.atencio@state.nm.us; Klein, Mitchell
Subject: Pojoaque/Bishop's Lodge matter

Dear Mr. Rey-Bear –

I'm writing to request certain documents and information from the Pueblo relevant to the NMED hearing. On behalf of our client, we are requesting the following informally because the Pueblo is not a party to the compliance order, and we do not believe the NMED has subpoena power over the Pueblo. Notwithstanding, to defend this matter, and in particular that part of the order requiring removal and remediation, we request the following:

- The physical location of the site, whether by address, proximity to an address, or other means;
- All environmental permits for the disposal site effective 2015 to present, if any;
- All invoices and manifests for any type of waste disposed of at the site from 2015 forward;
- All certificates of disposal or equivalents provide to disposers;
- The identify of any transporter for waste taken at the site (if not identified on manifests or invoices)
- Any photographs, maps, video, drawings or depictions of the site;
- The identity of individuals knowledgeable about waste taken to or accepted at the site since 2015, including permitting, the admittance of truckers, issuance of invoices, manifests, and certificates of disposal, and acceptance of waste for disposal.
- Does William Garcia work for the Pueblo? If so, what is his current position and will he submit to deposition voluntarily? If not, can you please provide his last known contact information?
- Any samples from the site from 2015 forward, and any analysis of those samples.
- What payment was accepted for the disposal at issue in the compliance order, and did that money go to the Pueblo? Who paid for the disposal?

We can discuss narrowing these requests to avoid undue burden, but please acknowledge whether the Pueblo is willing to provide these documents and information voluntarily. Thank you.

Gregory Marshall

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Marshall, Greg

From: Klein, Mitchell
Sent: Thursday, December 9, 2021 11:17 AM
To: Daniel Rey-Bear
Cc: Marshall, Greg; Christopher Atencio
Subject: RE: Pojoaque/Bishop's Lodge remediation

Dear Mr. Rey-Bear,

It has been more than a week, and you have not responded to either my e-mail or the previous one from my partner Mr. Marshall. Please let us know as soon as possible whether or not your client is willing to cooperate in allowing for an inspection of the site and/or providing documents. The hearing date is rapidly approaching, and we would appreciate a response of some kind. Thank you.

From: Klein, Mitchell <mjklein@swlaw.com>
Sent: Wednesday, December 1, 2021 10:52 AM
To: Daniel Rey-Bear <dan@rbmindianlaw.com>
Cc: Marshall, Greg <gmarshall@swlaw.com>; Christopher Atencio <christopher.atencio@state.nm.us>
Subject: RE: Pojoaque/Bishop's Lodge remediation

Dear Mr. Rey-Bear,

Thank you for providing the remedial estimate your client has obtained. Unfortunately, this estimate does not address the issues I raised in our call regarding the need for an investigation and characterization at the site. It does not provide any data, as apparently no sampling has ever taken place at the site. It does not even describe the site in any way, either vertically or laterally, and does not provide any information as to the current status of the complained of disposal. For example, there is nothing about whether the disposal is currently distinguishable from other disposals that may have occurred prior or subsequent to those from the Lodge, or the current status or extent of the complained of disposed materials. There is no information whatsoever as to what the risks to surface or groundwater might be.

It is simply an estimate on the cost for removal and re-disposal. Further, I note that this estimate includes the removal of tires, something that is not alleged to have anything to do with my client.

In order to prepare for the upcoming hearing, I repeat my request that the Tribe allow access to allow my client to have a qualified environmental engineer consultant examine the site. A representative from your client will be allowed to observe everything. In fact, it is necessary that someone direct them to the site and the particular area of disposal, as that information is not contained in any of the documents we have been provided. Should your client wish to obtain split samples for its own analysis, we will be happy to provide them, and we will provide you a copy of the final report.

We have retained a consultant and they are prepared to move forward immediately. Please let me know what dates within the next 2 weeks are available and convenient to your client so that we can make the arrangements. Thank you.

From: Daniel Rey-Bear <dan@rbmindianlaw.com>
Sent: Friday, November 19, 2021 5:49 PM
To: Klein, Mitchell <mjklein@swlaw.com>
Cc: Marshall, Greg <gmarshall@swlaw.com>; Christopher Atencio <christopher.atencio@state.nm.us>
Subject: Pojoaque/Bishop's Lodge remediation

[EXTERNAL] dan@rbmindianlaw.com

Mitchell,

In follow up to our discussion today, please see the attached remediation proposal that was referenced then.

Dan Rey-Bear, LEED AP BD+C
Board-Certified Specialist in Federal Indian Law
by the New Mexico Board of Legal Specialization

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